

**COLORADO STATE BOARD OF MEDICAL EXAMINERS**

**FULL BOARD OPEN MINUTES**

**May 22, 2008**

**9:10 a.m.**

A full board meeting of the Colorado State Board of Medical Examiners was held Thursday, May 22, 2008, at the Old Supreme Court Chambers at the State Capitol, 200 E. Colfax Avenue, Denver, Colorado at 9:00 a.m. The meeting was noticed in accordance with Division policy.

Present were Dr. Allen-Davis, Dr. Arja, Dr. Bair, Dr. Calonge (arrived at 9:12 a.m.), Dr. Faricy, Mr. Jennings, Dr. Jobin, Dr. Jolly, Reverend Leivers, Dr. Matthews, Ms. Radcliff, Mr. Schoenmakers and Dr. Watts.

The meeting was conducted by Dr. Faricy.

Also in attendance for all or part of the meeting were Board staff Cheryl Hara, Program Director, Susan Miller, Director of the Healthcare Section, Susan Taylor, Enforcement Program Manager, Ilene Johnson, Acting Assistant Enforcement Program Manager, Maria Soto, Office Manager, and Claudia Brett Goldin, First Assistant Attorney General.

**MINUTES**

A motion was made, seconded, and carried to approve the open and confidential minutes of the February 21, 2008 full board meeting as drafted.

**REPORTS**

**President's Report**

Dr. Faricy discussed highlights of the Federation of State Medical Boards (FSMB) annual meeting. He also talked about the USMLE exam.

**Section Director's Report**

Ms. Miller reported on outreach efforts regarding and implementation of the Michael Skolnik Medical Transparency Act. The Medical Transparency Act currently applies to new applicants for medical licensure, and will be applied to all currently licensed physicians in connection with 2009 license renewal.

**Program Director's Report**

None.

**Outreach Report**

None

**GENERAL BUSINESS**

**PUBLIC RULEMAKING**

At 9:30 a.m. an announcement was made that rulemaking would start after conclusion of the General Business appearances.

A motion was made, seconded and carried to convene the public rulemaking hearing, which was convened at 9:45 a.m. The Hearing was properly noticed under the provisions of the Administrative Procedure Act to consider Rule 800.

Dr. Faricy presented an overview of the proposed rules. A full opportunity was provided for submission of oral and written comments by the public.

**Rulemaking Hearing to Consider the Following Revision of Rules and Regulations:**

**Rule 800 – A Rulemaking Hearing to Consider Repeal and Readoption of Rules and Regulations for Rule 800 Colorado Board of Medical Examiners Rules Regarding Delegation and Supervision of Medical Services to Unlicensed Health Care Providers Pursuant to § 12-36-106(3)(l), C.R.S.**

Written comments submitted since February 21, 2008 are as follows and were reviewed by the Board:

- Letter from John F. Bershof, M.D. dated March 23, 2008.
- Report dated April 25, 2008 submitted by Joel Cohen.
- Letter from A. Wes. Siegner, Jr., President of Manufacturers of Equipment for Light-Based Aesthetics (MELA)

Open public testimony ensued. The following people requested to present oral testimony and did present oral testimony:

- Tina Long from Parker Day Spa.

The public testimony session concluded at 9:58 a.m.

Discussion among the Board members ensued. John Bershof, M.D., addressed the Board.

After due consideration, a motion was made, seconded and carried to repeal the old Rule 800 and adopt the new Rule 800 as amended, together with statement of basis and purpose, as published with the Notice of Rulemaking Hearing.

**GENERAL BUSINESS**

**Formation of Subcommittee for Rule 800 Frequently Asked Questions**

After discussion among the Board members, a motion was made, seconded and carried to form a subcommittee to answer questions from the public about Rule 800. This committee will consist of Dr. Allen-Davis, Dr. Calonge, Dr. Faricy, Mr. Jennings and Dr. Jobin.

**Physician Profile Clarification Request**

The Board reviewed a letter from Carla LaRosa, Associate General Counsel with University of Colorado Hospital, dated April 25, 2008, requesting clarification on the Michael Skolnik Medical Transparency Act.

Susan Miller, Healthcare Section Director, spoke on this issue. Discussion among Board members ensued.

After due consideration, a motion was made, seconded and carried to revise Policy 40-21.

**Colorado Prescription Drug Monitoring Program**

Susan Miller, Healthcare Section Director, gave a presentation on the Colorado Prescription Drug Monitoring Program.

**EMTS-MDC Recommendations for Rule 500 Waivers**

Arthur Kanowitz, M.D., Medical Director, Emergency Medical & Trauma Services (EMTS) Section, and Randy Kuykendall, EMS Section Chief., were present at the meeting to discuss Medical Direction Committee (MDC) Rule 500 Waiver recommendations and requests. The Board reviewed an April 21, 2008 memorandum from Dr. Arthur Kanowitz outlining the waiver requests and the Medical Advisory Group (MAG) recommendations, along with the waiver applications.

After discussion regarding CPAP protocol and time limitations and other desired changes to Rule 500, a motion was made, seconded and carried to adopt the EMTS-MDC recommendations for Rule 500 waiver requests with the added limitation of reporting requirements and expiration of the waivers after two years.

**Request for Reconsideration of Rule 500 Waivers**

The Board reviewed a letter from James M. Cusick, M.D., Summit County Ambulance Service, declining waivers granted at April 21, 2008 full board meeting.

Discussion among the Board ensued.

A motion was made, seconded and carried to approve this waiver request with a one-year limitation and reporting requirement.

A motion was made, seconded and carried to similarly approve a waiver request with a one-year limitation and reporting requirement for Diana Hearne, M.D., Eagle County Health Services Ambulance District.

**Rule 400 - Requests for Waivers of the Board Rule Regarding the Regulation of Physician Assistants**

**Linda C. Huang, M.D.**

After the Board reviewed a request for waiver of Rule 400 from Dr. Huang to accommodate part-time status of P.A.s in her office, a motion was made, seconded and carried to approve the waiver as requested to supervise three P.A.s with the limitation of a maximum number of hours equaling two fulltime P.A.s and no more than two P.A.s working at any given time.

**CPHP Report, Third Quarter, Report ending March 31, 2008**

The Board reviewed the March 31, 2008 Third Quarter Report.

A motion was made, seconded and carried to accept the report.

**Proposed Stipulation Changes (regarding tolling probation)**

The Board reviewed a privileged attorney-client memorandum.

Discussion among the Board members ensued.

A motion was made, seconded and carried to direct the Office of the Attorney General to amend language in standard Stipulation(s) and Final Agency Order(s) regarding tolling probation.

**ATTORNEY GENERAL REPORTS**

**a. Case Status Reports**

The Board reviewed privileged case status reports dated May 6, 2008.

**b. Tina M. Long, Unlicensed, Case # 2007-003347-F**

The Board reviewed a privileged memorandum from counsel and a proposed Stipulation Order to Cease and Desist regarding this case.

A motion was made, seconded and carried to approve the Stipulation Order to Cease and Desist as drafted.

**REPORTS OF OFFICE OF INVESTIGATIONS**

**Rubin Garcia, Alleged Unlicensed Practice, Case #2008-000422-F**

The Board reviewed a memorandum from Glenn Frank, Investigator, dated February 12, 2008.

A motion was made, seconded and carried to dismiss the case and staff was instructed to send a letter of warning regarding the practice of medicine.

A motion was made, seconded and carried to refer Dr. Michelle Moran and Dr. Eric Bruner to an Inquiry Panel of the Board.

**Tehsin Shahzad, Alleged Unlicensed Practice, Case #2008-001699-F**

The Board reviewed an investigative report from William Schlitter, Investigator, dated February 21, 2008.

A motion was made, seconded and carried to table this case pending further information, to refer Dr. Tanweer Khan to an Inquiry Panel, and staff was instructed to send a letter to Schryver Medical regarding the requirement that a physician be licensed in Colorado to interpret x-rays.

**ALLEGATIONS OF UNLICENSED PRACTICE OF MEDICINE AND/OR RULE 800 VIOLATIONS**

**Paul Baxt (Unlicensed Practice)**

The Board reviewed a complaint dated April 18, 2008.

A motion was made, seconded and carried to refer this matter to the Office of Investigations.

**BrainMatters/John and Nancy Goodhue (Unlicensed Practice)**

The Board reviewed letters from Pamela Levine, M.D., dated April 16, 2008 and from Charles H. Rose, dated May 2, 2008.

A motion was made, seconded and carried to refer this matter to the Office of Investigations.

**Ronghua "Rona" Bian (Unlicensed Practice)**

The Board reviewed a letter from Nawei Jiang, Ph.D. with copy of advertisement for Dr. Ronghua Bian.

A motion was made, seconded and carried to direct staff to send a letter of warning to Ms. Bian.

**Brandon Credeur, D.C. (Unlicensed Practice)**

The Board reviewed a letter John M. McMahon, M.D., with literature from Dr. Credeur for treatment of diabetes.

A motion was made, seconded and carried to refer this matter to the Office of Investigations and the Board of Chiropractic Examiners.

**Melinda Hulse (Unlicensed Practice or Rule 800 Violation)**

The Board reviewed a memorandum from the Board of Nursing dated April 24, 2008.

A motion was made, seconded and carried to refer this matter to the Office of Investigations.

**Alison Kellagher (Unlicensed Practice)**

The Board reviewed a copy of advertisement for Alison Kellagher from Jane A. Kennedy, D.O.

A motion was made, seconded and carried to refer this matter to the Office of Investigations.

**Holly Wright/Laser Pain Clinics & BioMedLaser Corp (Unlicensed Practice)**

The Board reviewed a referral from the Physical Therapy Licensure office dated March 24, 2008.

A motion was made, seconded and carried to refer this matter to the Food and Drug Administration.

**ITEMS OF INTEREST**

- Ms. Hara presented an update on the Michael Skolnik Medical Transparency Act.
- The Board reviewed the following articles from *Professional Licensing Report*:
  - Attempted hit-man hire justified revocation of license.
  - Five-year monitoring not excessive in incompetence case.
  - Board's six-month residency requirement for applicants overturned.
  - Revocation upheld for consciously lower standard of care.
- The Board reviewed a press release regarding patient mortality being linked to judicial errors.
- The Board reviewed an excerpt from *COPIC Topics* dated December 2007 on the New Exclusion Regarding Nonemployee Allied Health Professionals and Aesthetic/Cosmetic Procedures.
- The Board reviewed an article from the *Denver Business Journal*, march 7-13, 2008, Vol. 59, No. 38, "Lawmakers dissect COPIC: Proposal to raise caps pits doctors, lawyers."
- The Board reviewed an article from the *Rocky Mountain News*, April 25, 2008, by Joanne Kelley, "Lawyers fight back with 9 business measures."

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 1:05 p.m.

**FOR THE BOARD OF MEDICAL EXAMINERS**

*Approved by: Patrick O. Faricy, M.D.*

*Date: August 21, 2008*